THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3964 of 2007

26.3.2007

Between:

Sri G.N.Satya Narayana, S/o.G.S.L.Marthanda Murthy

… Petitioner

AND

The Superintending Engineer, Panchayat Raj Department, Jagannadhapuram, Kakinada And another

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3964 of 2007

ORDER:

The petitioner is a contractor registered with the Panchayat Raj Department. The first respondent invited tenders for the works of providing road from Swaminagar to Cheediga at an estimated cost of Rs.46.00 lakhs and for providing approach road to Sampara village at an estimated cost of Rs.27.00 lakhs. The petitioner submitted tenders through E-procurement platform. He alleges that he quoted the lowest rates and in spite of the same, the respondents did not open financial bids. Therefore he filed the present writ petition seeking a writ of Mandamus directing the first respondent to open the tenders of the petitioner submitted on 08.12.2006.

At the stage of admission itself, a counter affidavit is filed by the Assistant Executive Engineer, Panchayat Raj Department, Jagannadhapuram, Kakinada, on behalf of respondents 1 and 2. It is stated that when the technical evaluation of the bids submitted by the petitioner was taken up, it was found that the petitioner did not upload the latest saral (Income Tax return), which is a mandatory condition as per the Notice Inviting Tenders (NIT) and he uploaded IT return for 2005-2006, which is not in due compliance with the conditions and, therefore, the same was not opened. Insofar as the other work is concerned i.e., providing approach road to Sampara village, it is stated that the petitioner did not upload the latest IT return and, therefore, he is disqualified.

Heard the learned Counsel for the petitioner and learned Assistant Government Pleader for Panchayat Raj. Learned Counsel for the petitioner, apart from reiterating the submissions made in the affidavit accompanying the writ petition, urges that when the petitioner has submitted IT return for the year 2005-2006, the same was accepted as valid compliance and, therefore, the action of the

respondents in not accepting IT return for 2005-2006 is illegal and arbitrary. **Per contra**, learned Assistant Government Pleader submits that as per the NIT, the submission of IT documents namely Permanent Assessment Number card and latest saral is mandatory and the non-compliance with the mandatory conditions entails in disqualification of the petitioner. He is also placed reliance on IT return submitted by other tenderers as well as the petitioner.

After perusing the conditions of tender and NIT, and the submissions made on behalf of the petitioner, this Court is convinced that the tender of the petitioner was not responsive with reference to the conditions of tender as per NIT and, therefore, there is every justification in disqualifying the petitioner. The submission that disqualifying the petitioner was an arbitrary decision is misconceived.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

March 26, 2007.
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